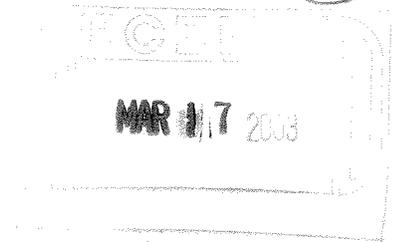


ANDERSON & KREIGER LLP

Don 3/24/03



GEORGE A. HALL, JR.
ghall@andersonkreiger.com

March 14, 2003

**By Fax 978-264-9630 and
First Class Mail**

Mr. John Murray
Assistant Town Manager
Town of Acton
472 Main Street
Acton, MA 01720

Re: (Regional School District Budget - Disapproval of Lesser Amount - Special Appropriations)

Dear John:

You have asked whether the Town Meeting may appropriate an amount less than the share of the proposed Regional School District budget allocated to the Town by the Regional School District Committee as an alternative to simply disapproving the requested appropriation. You have also asked whether the Town may earmark funds in the Regional School District budget either within the budget appropriation itself, or by making a separate appropriation for a specific purpose.

Appropriation of an Amount Less Than the Town's Proposed Share

Chapter 71, section 16B of the General Laws assigns to the Regional School District Committee the task of "determining the amounts necessary to be raised" for the annual expenses of the District, i.e., to adopt an operating budget. The Committee is then directed to allocate those expenses to the member towns in accordance with the Regional School District agreement. If both towns approve the budget by appropriating their respective shares (in districts consisting of only two towns), the budget is approved. If either town disapproves the budget by failing to appropriate its share, the School Committee has 30 days to reconsider and recertify its budget request. If the second budget request is not approved, then the School Committee has to call a "special district-wide meeting" for the purpose of approving a budget. If that meeting fails to produce a budget, the Commissioner of the Department of Education may certify the final budget and order the appropriation of the funds required.

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Assistant Town Manager
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While the sequence of events as laid out in the statute suggests that the School Committee, in the event of the disapproval of the initial budget request by one of the towns, would recertify a new budget *before* the towns acted on the revised request, we think that if the towns vote to appropriate lesser amounts, and the School Committee later recertifies a budget to match the lower appropriations, that there is a valid and final budget. The appropriation of a lesser amount does not automatically compel the School Committee to lower its budget request to a matching amount, and short of such action, the Town Meeting vote would be considered a disapproval of the budget. If, however, the School Committee chooses to accept the amount appropriated, the reversal of the sequence of these two events (recertification and appropriation) does not affect the validity of the budget, and it certainly saves the time and expense of another Town Meeting.

Special Appropriations

We do not read G.L. c. 71, § 16B to permit the member towns to earmark funds within the Regional School District operating budget. The statute allows each town an “up or down” vote on whether to appropriate the share of the budget allocated to it by the School Committee. While member towns do sometimes make special appropriations, usually for capital improvement purposes, for the support of regional school districts, these appropriations are distinct from the annual expenses referred to in § 16B. A town clearly may not vote to appropriate its share subject to the proviso that a particular amount be used for a particular purpose. A vote to appropriate less than the requested share of the annual budget, accompanied by a special appropriation for a particular purpose (to hire more math teachers, for example) would be essentially the same thing, and also, in our view, invalid, particularly if that action were to be taken under the single warrant article calling a vote on the annual budget request.

If you have any further questions regarding this matter, please feel free to call me.

Sincerely,

George A. Hall, Jr.
George A. Hall, Jr. (fc)

:GAH

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